

GENERAL WAIVER COVER SHEET
CALIFORNIA STATE BOARD OF EDUCATION
FEBRUARY 2003 AGENDA
Item No. W-3

TITLE: Request by San Diego Unified School District of portions of <i>Education Code</i> (E.C.) Section 33128(b) and <i>Title 5 Regulation</i> section 15443 to lower its recommended level of budget reserves from two percent to one CDSIS: 4-11-2002	<input checked="" type="checkbox"/> ACTION <input type="checkbox"/> INFORMATION <input type="checkbox"/> PUBLIC HEARING <input type="checkbox"/> CONSENT
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RECOMMENDATION: The Department recommends:

☒ Approval, on the condition that the waiver **not** become permanent under E.C. 33051(c), consistent with the legislation intended to allow a lower level of reserves for San Diego Unified, only until June 30, 2004.

Summary of Previous State Board of Education Discussion and Action:

No waiver of this type has ever been heard; however in 1998, statute was amended (SB 2023, Chapter 784) to temporarily allow a **one** percent reserve for all school districts with ADA between 125,000 and 400,000, which at the time applied **only to San Diego Unified**. The law was again amended in 2002 (AB 1818, Chapter 1168) to extend the expiration date from July 1, 2003 to July 1, 2004. However, San Diego is projecting to fall below 125,000 ADA for the 2002-03 fiscal year, thereby making current law inoperable and placing SDUSD back into the higher two percent reserve category.

Summary of Key Issue(s):

In an attempt to curtail an increasing number of school district bankruptcies, laws were enacted in the late 1980s to create budget standards for all local education agencies (LEAs) to follow. One of the standards is a requirement that LEAs set aside a certain percentage of their budget as a “reserve for economic uncertainties.” This reserve is intended to provide a cushion against unanticipated fiscal needs that may arise, and thereby eliminate future bankruptcies and the need for emergency loans. The amount of each school district’s reserve is based on the size of its general fund budget and the amount of its average daily attendance (ADA), with smaller districts reserving a larger percentage of their budgets, and larger districts reserving a smaller percentage of their budgets.

As established by Title 5 regulations, for most school districts the recommended level of reserve for economic uncertainties is three percent of total general fund expenditures. For small districts, the recommended reserves may be as much as five percent; for large districts, as low as one percent. The recommended reserves for a district with ADA of between 30,001 and 400,000 (San Diego Unified School District is about 120,000) is two percent of total general fund expenditures. School districts with more than 400,000 ADA need only maintain a one percent reserve; currently only Los Angeles Unified School District, which has ADA in excess of 700,000, falls into this category.

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It is important for school districts to maintain an adequate reserve for economic uncertainties as protection against unanticipated fiscal needs that may arise from a variety of circumstances. This reserve is what will get them through the uncertainties and prevent potential insolvency. With one recent emergency loan (Emery Unified) and two more on the horizon (Oakland Unified and West Fresno Elementary), in these uncertain times it is prudent for districts to maintain reasonable reserves in developing budgets and managing expenditures.

While we believe that **districts should continue to maintain the level of reserves specified in the Title 5 regulations**, we recognize that the **Legislature's intent with E.C. 338120(b) was to allow San Diego Unified to maintain a lower level of reserves until July 1, 2004**. In addition the **Governors Budget proposal for 2003-2004 contains a plan to lessen the budget impact of upcoming cuts on schools by allowing them to maintain some yet to be determined lower level of reserves**.

Therefore, the Department is recommending approval of this waiver, consistent with legislative intent, on the condition that the waiver NOT be allowed to become permanent under E.C 33050, so the "period of request" is shortened by one day, and new legislative authority must be sought to continue the lower level of reserves past June 30, 2004.

Authority for the waiver: ***Education Code Section 33050***

Bargaining unit(s) consulted on: **October 9, 2002**

Position of bargaining unit (choose only one):

☐

Neutral

☒

Support

☐

Oppose

Name of bargaining unit representative: Robin Whitlow, San Diego Education Association

Local board approval date: **October 22, 2002**

Public Hearing : **October 22, 2002 - Noticed in newspaper**

Advisory Committee: NA

Effective dates of request: **July 2, 2002, to June 30, 2004**

Fiscal Analysis (as appropriate):

If San Diego had to maintain the 2% reserve, it would require the district to make more than \$11 million in cuts to instructional programs in this fiscal year.